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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/257,223	02/25/1999	LESLIE DEREK HUMPHREY	476-1733	1908
23644	7590	10/04/2005		
BARNES & THORNBURG P.O. BOX 2786 CHICAGO, IL 60690-2786			EXAMINER FERRIS, DERRICK W	
			ART UNIT 2663	PAPER NUMBER

DATE MAILED: 10/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/257,223

Applicant(s)

HUMPHREY, LESLIE DEREK

Examiner

Derrick W. Ferris

Art Unit

2663

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-7,12,13 and 15-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2,4-6,13,20,21 and 24 is/are allowed.
- 6) ☒ Claim(s) 1,7,12,19,22 and 23 is/are rejected.
- 7) ☒ Claim(s) 15-18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 October 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. This Office action is in response to applicant's paper filed 7/20/2005. **Claims 1-2, 4-7, 12-13, and 15-24** as amended are still in consideration for this application.

2. Examiner **withdraws** the anticipated rejection to *Seazholtz* by the previous examiner.

The following comments fully address applicant's arguments with respect to the rejection.

Applicant is correct in pointing out that the reference does not clearly teach transmitting *a sequence of AAL minicells* carried in an engineering operations channel over the line. In particular, *Seazholtz* teaches at column 16, lines 12-13 that all ADSL/AVR transmission, including signaling and control channels, is handled by the ATM network but appears to be silent or deficient with respect to transmitting and receiving *a sequence of AAL minicells* over such a channel. Thus an ATM network may not inherently teach AAL minicells since other types of ATM traffic can traverse the network as pointed out by applicant.

However, the examiner notes that the above claim limitation would have been obvious with respect to at least ATM voice traffic. In particular, ATM voice traffic uses AAL2 CPS packets which use a specific management channel for setting up and tearing down connections (i.e., an LLC with CID=0) for all the voice channels. Such a management channel reads on the above claim limitation. In other words, what may be at issue between the examiner and applicant is the definition of an engineering operations channel which is not further recited in the claims (e.g., applicant's figure 3 with respect to a superframe is not recited in the claims). As such, please find a new obviousness rejection below.

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The following rejection is made non-final since the rejection below is a new rejection which is not necessitated by applicant's claim amendment.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 1, 7, 12, 19, 22, and 23** are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,812,786 to *Seazholtz et al.* ("*Seazholtz*") in view of U.S. Patent No. 6,219,339 B1 to *Doshi et al.* ("*Doshi*").

As such to **claim 1, 7, 12, 19, 22, and 23**, *Seazholtz* discloses in figure 2 the present invention in an ATM network. ATM networks are especially well suited for use with variable rate/variable mode ADSL/AVR'S (a point to point DSL communication service). All ADSL/AVR transmission, including signaling and control channels, is handled by the ATM network (column 15, line 65 - column 16, line 15). Figure 2 also teaches an ATM switch (22 and 101) serving the termination equipment and the subscriber terminal (first and second management system).

Seazholtz is silent or deficient to the further limitation transmitting *a sequence of AAL minicells* carried in an engineering operations channel over the line. In particular, *Seazholtz* teaches at column 16, lines 12-13 that all ADSL/AVR transmission, including signaling and control channels, is handled by the ATM network but appears to be silent

or deficient with respect to transmitting and receiving *a sequence of AAL minicells* over such a channel.

Doshi teaches the further recited limitation above at e.g., column 4, line 24 – column 6, line 33. In particular, *Doshi* teaches with respect to figure 3 that the ATM connection level management is handled in a service specific manner such that signalling is sent over a point-to-point LLC connection where AAL2 uses a predefined LLC where CID=0, see e.g., column 6, line 8-33.

The proposed modification of the above-applied reference(s) necessary to arrive at the claimed subject matter would be to modify *Seazholtz* by clarifying that ATM traffic is ATM voice traffic which uses AAL2 CPS packets or minicells and further requires an engineering operations channel that also uses AAL CPS packets (i.e., minicells).

As such, examiner notes that it would have been obvious to one skilled in the art prior to applicant's invention to include the above limitation. In particular, the motivation for modifying the reference or to combine the reference teachings would be to provide efficient transport of voice packets over ATM networks in such a way that allows very small transfer delay across an ATM network and still allows the receiver to recover the original packets. In particular, *Doshi* cures the above-cited deficiency by providing a motivation found at e.g., column 4 lines 25-40 with respect to AAL2 packets. Second, there would be a reasonable expectation of success since AAL2 runs using ATM as shown in figure 3 of *Doshi*. Thus the references teach the above claim limitation(s).

Allowable Subject Matter

5. **Claims 2, 4-6, 13, 20, 21, and 24** are allowable.

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6. **Claims 15-18** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

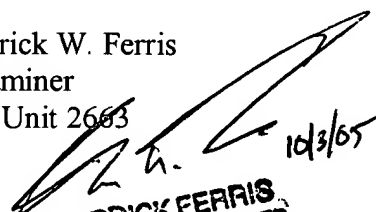
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Derrick W. Ferris whose telephone number is (571) 272-3123. The examiner can normally be reached on M-F 9 A.M. - 4:30 P.M. E.S.T.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Ngo can be reached on (571)272-3139. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


DWF

Derrick W. Ferris
Examiner
Art Unit 2663


10/3/05
**DERRICK FERRIS
PATENT EXAMINER**